IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 13951 of 1994

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Between:

Mr. P. Anjaiah S/o Buchappa
R/o Polkampalli (V), Munpally (M),
Medak Dist.

..... PETITIONER

AND

-

1 N. Nagaiah S/o Malkaiah
R/o Polkampally (V), Munpally (M),
Medak Dist.
2 The Joint Collector Medak at Sangareddy
3 The Revenue Divisional Officer Sangareddy
4 The Mandal Revenue Officer Munpalli (M), Medak Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction more particularly one in the nature of Writ of Certiorari calling for the records of the 2nd respondent herein in case No.J/51/ROR/94 dated 29-6-1994 and quash the same as arbitrary, high handed, illegal and without jurisdiction and pass

Counsel for the Petitioner: MR.V.TULASI REDDY

Counsel for Respondent No.1: ---

Counsel for Respondent Nos.2 to 4: GP FOR REVENUE

The Court Made the Following ORDER:

The present writ petition is filed by the petitioner for issuance of a Writ of Certiorari calling for records of the 2nd respondent herein in case No.LJ/51/ROR/94 dated 29-6-1994 and to quash the same as arbitrary, high handed, illegal and without jurisdiction.

The petitioner states that he was the adopted son of late P. Veeramma by virtue of a registered adoption deed dated 20-4-1967. As such he is the pattadar and owner of the land to an extent of Acs.11.03 in Sy.No.96 of Polkampalli village, Munipally Mandal, Medak District along with other lands. He further states that his mother filed a declaration before the Land Reforms Tribunal at Sangareddy Division, under A.P. Agricultural land Reforms (Ceiling on Agricultural Holdings) Act, 1974 mentioning his name as adopted son. The Land Reforms Tribunal by its order dated 11-3-1976 accepted the declaration including the adoption. After the death of his mother in the year 1978, he has been in uninterrupted and continuous possession and enjoyment of the said land apart from the other lands, which were held by his mother. However, on an application made by the first respondent nearly after a period of 26 years, the Mandal Revenue Officer-the fourth respondent herein has issued a Certificate on 20-3-1993 in Form XIII (B) under Section 5-A (4) of the A.P. Record of Rights in Land and Pattedar Pass Books Act 1971 validating the sale effected under an unregistered sale deed dated 20-4-1967 alleged to have been executed by the deceased mother of the petitioner on the very same day of executing the registered adoption deed. Aggrieved by the same, the petitioner filed an appeal before the Revenue Divisional Officer, third respondent herein and obtained interim suspension of the certificate issued by the Mandal Revenue Officer and after due enquiry, the Revenue Divisional Officer by

Proceedings No.B1/2269/93 dated 4-3-1994 allowed the appeal setting aside the certificate dated 20-3-1993 passed by the Mandal Revenue Officer. Against the order of the Revenue Divisional Officer, the first respondent filed a revision before the Joint Collector, second respondent herein. The Joint Collector by order dated 29-6-1994 allowed the revision petition filed by the first respondent setting aside the order of the Revenue Divisional Officer dated 4-3-1994. Aggrieved by the same, the present writ petition has been filed.

Learned counsel for the petitioner contended that the petitioner is the absolute owner of the land in question and he is the adopted son by virtue of adoption deed dated 20-4-1967 and the first respondent has chosen to file the application for grant of certificate in Form-XIII (B) nearly after 26 years, on the basis of an unregistered sale deed alleged to have been executed by the deceased mother of the petitioner. It is his further contention that no notice has been issued to the petitioner before issuance of Form-XIII (B) certificate by the Mandal Revenue Officer. He also contended that both the primary and revisional authorities have failed to note that the first respondent has made the application belatedly after a period of 26 years and the above factum of delay has not been considered at all by the said authorities and the petitioner was not given any opportunity whatsoever, which is arbitrary, illegal and violation of principles of natural justice.

This court while admitting the writ petition on 29-7-1994 passed interim orders in W.P.M.P.No.17078 of 1994 and the same has been made absolute on 25-11-1998. In view of the interim orders the petitioner is still in continuous possession of the land.

Heard learned counsel for the petitioner. Though notice was served on the first respondent, when the matter is called there is no representation for the first respondent either by person or through his counsel. Hence, the matter is decided basing on the material available on record.

A reading of the certificate dated 20-3-1993 issued by the fourth respondent would show that the petitioner was not given any notice before issuing Form-XIII (B) certificate to first respondent. Further, the application made by the first respondent, nearly after a period of 26 years on the basis of an unregistered sale deed alleged to have been executed by the deceased

mother of the petitioner, is a belated one even assuming that there is a sale under the unregistered agreement of sale. The primary authority and the revisional authority have not considered the above aspect of delay and have chosen to validate Form-XIII (B) certificate.

Having regard to the facts and circumstances of the case, and in view of the fact that the petitioner is the adopted son of the deceased mother and is in continuous possession and enjoyment of the land in question, the impugned order is set aside and the Writ Petition is allowed as prayed for. No costs.

T. Meena Kumari, J.

12th August, 2004.

Js.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the twelfth day of August, Two Thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Joint Collector Medak at Sangareddy
2 The Revenue Divisional Officer Sangareddy
3 The Mandal Revenue Officer Munpalli (M), Medak

District.

4 Two CCs to G.P. for Revenue, High Court Buildings,

High Court of A.P., Hyderabad. (OUT).

5 2 CD copies.